

Constitution and the Bill of Rights, and oppose such efforts to diminish the historical precedent that they represent. As one of our nation's greatest patriots, Colin Powell, recently stated about this amendment, "I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

Mr. Speaker, our flag is a symbol of our freedom, not freedom itself. I encourage my colleagues to avoid the unwise path of unnecessarily amending the Constitution, and I urge them to vote "no" on H.J. Res. 36.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership in pushing for this amendment to be argued and debated today on the floor of the House.

I also want to thank the principal sponsor of this constitutional amendment, the gentleman from California (Mr. CUNNINGHAM), who spoke with such emotion and so eloquently just a few moments ago. No one is more qualified in actually putting his life on the line for his country than the gentleman from California (Mr. CUNNINGHAM). I want to thank him for that.

The flag is the most powerful symbol of the ideals upon which America was founded. It is a national asset that helps to protect and preserve our unity, our freedom, and our liberty as Americans.

As our country has grown and welcomed those from diverse religious and cultural backgrounds, the flag's power to unify our Nation has become even more evident, bringing together all Americans, young and old, to champion those principles upon which this country was built, principles for which our servicemen and women have fought and died, and principles that have moved so many individuals throughout history to leave their homes and families and travel to America to build a new life. A symbol that binds a nation together, as our flag does, already fulfills a unique role in our democratic process.

Since 1994, however, there have been at least 86 reported incidences of flag desecration. These incidences have occurred in 29 States. They have occurred here in the District of Columbia. They have occurred in Puerto Rico. Since the U.S. Supreme Court ruled in *Texas v. Johnson* that burning an American flag as part of a political demonstration was expressive conduct protected by the first amendment to the United States Constitution, the States have been powerless to prevent the physical desecration of this most valued symbol.

In response to *Johnson* in September, 1989, Congress overwhelmingly passed the Flag Protection Act of 1989, which amended the Federal Flag Statute to focus exclusively on the conduct of the act, irrespective of any expressive mes-

sage he or she might be intending to convey.

Later that year, however, in another five to four ruling in the U.S. Supreme Court, *United States v. Eichman*, they struck down that act as an infringement of expressive conduct protected by the first amendment.

Because of the *Johnson* and *Eichman* decisions, the only remedy left to Congress to protect the flag from acts of desecration is a constitutional amendment. Many would argue that we should not amend the Constitution for this purpose. This is the only way that we can protect the flag.

The amendment before the House would restore to Congress the authority to prohibit the physical desecration of the flag. The amendment, as the chairman stated, itself does not prohibit flag desecration. It merely empowers Congress to enact legislation to prohibit the physical desecration of the flag, and establishes boundaries within which it may legislate. Work on a statute will come at a later date, after the amendment is ratified by three-fourths of the States.

Vigilant protection of freedom of speech and, in particular, political speech is central to our political system. Until the *Johnson* and *Eichman* cases, however, punishing flag desecration had been viewed as compatible with both the letter and the spirit of the first amendment.

The first amendment freedoms do not extend and should not be extended to grant an individual an unlimited right to engage in any form of desired conduct under the cloak of free expression. Both State and Federal criminal codes are full of examples of conduct that is prohibited in our country, regardless of whether it is cloaked in the first amendment.

Furthermore, obscenity laws, libel and slander laws, copyright laws, and even perjury laws, they all reflect the fact that some forms of expression and sometimes even the content of that expression may be regulated and even prohibited without violating the first amendment.

We cannot burn our draft cards. We cannot burn money. There are many acts we cannot perform. The flag protection amendment simply reflects society's interest in maintaining the flag as a national symbol by protecting it from acts of physical desecration. It will not interfere with an individual's ability to express his or her ideas, whatever they may be, by any other means.

This amendment has been approved by this Chamber twice and enjoys the support of a supermajority of the House of Representatives. It is supported by a majority of the United States Senators and 49 out of 50 State legislatures, which have passed resolutions calling on Congress to pass the amendment and send it back to the States for ratification.

Perhaps, most importantly, the amendment is supported by an over-

whelming majority of the American people. It is time for Congress to answer their calls to preserve and protect the one symbol that embodies all that our Nation represents.

For the veterans who risked their lives for our country and our freedoms, for our children who view our flag with admiration and devotion, and for every American who believes that our flag deserves protection, I urge my colleagues to support this important amendment.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN), an able member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, I think all of us have had this experience walking into the Capitol, especially at night when we are in session, and we see our beautiful American flag flying over the Capitol of the freest country in the world, and it is so moving it is almost hard to keep walking by.

I think no matter where one comes down on this amendment, there is not a single Member of Congress who thinks it is good or right to deface or in any way dishonor the flag of the United States. If we felt that, we would not be elected to Congress. We would not be here serving the Nation in the freest legislative body in the world.

Every day, we start our legislative session with these words: "I pledge allegiance to the flag of the United States of America and to the Republic, for which it stands, one Nation, under God, with liberty and justice for all."

The flag stands for something. It stands for the freest country in the world. Our country is free for a lot of reasons. It is free because brave men and women went out and heard the call to protect us, to take up arms, and to protect us over the decades and centuries when our country was attacked by those who would not allow us to have our freedom.

But we are also free because we live under the rule of law. One of the most important aspects of that is the first amendment. Let me just refresh our memory on what the first amendment says.

It says: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or of the right of the people peaceably to assemble and to petition the government for a redress of grievances."

The Supreme Court, which has been the interpreter of our Constitution since the beginning of our Republic, has said that destruction or wrongdoing towards our flag is protected by the first amendment. These are not liberal, wild-eyed justices, but Justice Scalia, probably the most conservative member of the Supreme Court, signed the opinion saying that flag-burning is protected by the first amendment.

All of us, when we became Members of this body, took an oath of office. We